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EXAMINER	
MONIKANG, GEORGE C	

ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/698,297	WEISER, ANATOLY S.	
	Examiner	Art Unit	
	GEORGE C. MONIKANG	2615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *21 May 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-53* is/are pending in the application.

4a) Of the above claim(s) *1-9* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *10-53* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 5/21/2007 have been fully considered but they are not persuasive.

2. With respect to applicant's arguments that Miura et al fail to disclose monitoring one or more sound attributes of incoming sound, the examiner maintains his stand. Miura et al discloses monitoring the attributes of recordings by analyzing the recordings for errors or identification of empty packets (*Miura et al, paras 0038, 0061, 0100*).

3. With respect to applicant's arguments that Miura et al fail to disclose determining a first plurality of intervals within the segments of effective sound absence and the plurality of intervals comprising at least one interval shorter than a segment of effective sound absence associated with said at least one interval. Due the applicant failing to clearly disclose in the specification the advantages of the above limitations, the examiner maintains his stand. Miura et al discloses receiving continuous empty packages which are associated to the errors in the music where some of the empty packages (*Miura et al, para 0100; fig. 71 & 7b: 74 & 75*).

4. With respect to applicant's arguments that Miura et al and Colier fail to disclose a transmitter via an antenna. The examiner argues that Miura et al discloses transmitting data. Since it is well known that data could be transmitted via an antenna, this argument fails to put the application in condition for allowance. Also, the amendment of the claim carrying this limitation, claim 32 necessitates the grounds for finality.

5.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 10-28 & 30-31, 34-38, 41, 43, 45-50 & 52-53 are rejected under 35 U.S.C. 102(e) as being anticipated by Miura et al, US Patent Pub. 2002/0183873 A1.

Re Claim 10, Mura et al discloses a method of transferring incoming sound, comprising: (a) storing the incoming sound in a buffer (*para 0038*); (b) monitoring one or more attributes of the incoming sound to produce indications of sound segment presence and effective sound absence based on the one or more attributes (*paras 0038, 0061, 0100*); (c) transferring a predetermined interval of the sound in the buffer when the one or more sound attributes produce an indication of sound segment presence, the predetermined interval extending to a point in time when the indication is produced (*para 0075*); (d) transferring the sound following the indication (*paras 0038, 0075*); and (e) terminating said step (d) when the one or more sound attributes produce an indication of effective sound absence (*para 0061, 0100*).

3. Re Claim 11, Miura et al discloses a method in accordance with claim 10, wherein the step of storing comprises storing the sound in a FIFO (*para 0097*).

4. Re Claim 12, Miura et al discloses a method in accordance with claim 10, wherein the one or more sound attributes comprise sound intensity level, and wherein the monitoring produces an indication of sound segment presence when the sound intensity level exceeds a first threshold (*paras 0038, 0061, 0100; fig. 3: 46; the RF amplifier would amplify the audio signals to a certain power intensity level and signals that don't come close to this level would be an error*).

Re Claim 13, Miura et al disclose a method in accordance with claim 10, wherein the one or more sound attributes comprise sound intensity level, and wherein monitoring produces an indication of effective sound absence when the sound intensity level is below a first threshold (*para 0099; empty packets have low sound intensity level determined by the controller fig. 9: 39*).

5. Re Claim 14, Miura et al discloses a method in accordance with claim 10, wherein the one or more sound attributes comprise sound intensity level, wherein monitoring produces an indication of sound segment presence when the sound intensity level exceeds a first threshold (*fig. 3: 46; the RF amplifier would amplify the audio signals to a certain power intensity level and signals that don't come close to this level would be an error*), and wherein monitoring produces an indication of effective sound absence when the sound intensity level is below a second threshold (*para 0099; empty packets have low sound intensity level determined by the controller fig. 9: 39*).

Re Claim 15, Miura et al discloses a method in accordance with claim 10, wherein the one or more sound attributes comprise sound intensity level, wherein monitoring produces an indication of sound segment presence when the sound intensity

level exceeds a first threshold (*fig. 3: 46; the RF amplifier would amplify the audio signals to a certain power intensity level and signals that don't come close to this level would be an error*), and wherein monitoring produces an indication of effective sound absence when the sound intensity level is at or below the first threshold (*fig. 3: 46; the RF amplifier would amplify the audio signals to a certain power intensity level and signals that don't come close to this level would be an error*).

Re Claim 16, Miura et al disclose a method in accordance with claim 10, wherein the monitoring comprises monitoring spectral power densities of the sound (*fig. 3: 46; the RF amplifier would amplify the audio signals to a certain power density level and signals that don't come close to this level would be an error*).

Re Claim 17, Miura et al disclose a method in accordance with claim 10, wherein the monitoring comprises monitoring at least one moving average of the sound intensity level (*fig. 3: 46; the RF amplifier would amplify the audio signals to a certain intensity level*).

Re Claim 18, Miura et al discloses a method in accordance with claim 10, wherein: said step (c) comprises recording the sound in the buffer on a recording medium when the monitoring produces an indication of sound segment presence (*para 0075*); and said step (d) comprises recording the sound on the recording medium following the indication of sound segment presence (*para 0057*).

Re Claim 19, Miura et al discloses a method in accordance with claim 10, wherein: said step (c) comprises wirelessly transmitting (*para 0038; RF signals are transmitted wirelessly*) the sound in the buffer when the monitoring produces an

indication of sound segment presence (*para 0038*); and said step (d) comprises wirelessly transmitting (*para 0038; RF signals are transmitted wirelessly*) the sound following the indication of sound segment presence (*para 0038*).

Claim 20 has been analyzed and rejected according to claim 18.

Re Claim 21, Miura et al discloses a method of sound-activated transfer of incoming sound, the method comprising: identifying non-overlapping segments of sound and effective sound absence within the incoming sound (*para 0038, 0061, 0100*); transferring the segments of sound (*para 0038*); determining a first plurality of intervals within the segments of effective sound absence (*para 0100; fig. 71 & 7b: 74 & 75*), each interval immediately preceding one of the segments of sound, each interval being part of and associated with a segment of effective sound absence, the plurality of intervals comprising at least one interval shorter than a segment of effective sound absence associated with said at least one interval (*fig. 7a & 7b: 74 & 75*); and transferring the first plurality of intervals (*para 0081 - 0084*).

Re Claim 22, Miura et al discloses a method in accordance with claim 21, wherein each segment of effective sound absence located between two segments of sound comprises an interval of the first plurality of intervals (*fig. 7a & 7b: 74 & 75*).

Re Claim 23, Miura et al discloses a method in accordance with claim 21, further comprising: defining criteria for determining beginning of a segment of sound; and defining criteria for determining beginning of a segment of effective sound absence (*para 0086*).

Re Claim 24, Miura et al discloses a method in accordance with claim 21, wherein: said step of transferring the segments of sound comprises recording the segments of sound (*para 0075*); and said step of transferring the first plurality of intervals comprises recording the first plurality of intervals (*para 0075*).

Re Claim 25, Miura et al discloses a method in accordance with claim 21, wherein: said step of transferring the segments of sound comprises transmitting the segments of sound (*para 0038*); and said step of transferring the first plurality of intervals comprises transmitting the first plurality of intervals (*para 0038*).

Claim 26 has been analyzed and rejected according to claim 9.

Re Claim 27, Miura et al discloses a method in accordance with claim 21, further comprising dynamically defining lengths of the intervals (*para 0075; while recording the tracks, the recording device will have the ability to determine the length of each track/interval*).

Re Claim 28, Miura et al discloses a sound recorder, comprising: an input receiving digitized waveforms representing sound (*para 0057*); a memory storing a program (*para 0038*); a processor configured to execute the program (*fig. 2: 27*); and an interface to a recording medium (*fig. 2: 29*), the interface being coupled to the processor (*para 0039*) wherein the processor, under control of the program, is configured to; determine sound segments within the digitized waveforms (*para 0038*); cause the sound segments to be transferred through the interface to be recorded on the recording medium (*para 0038, 0057*); and causes a plurality of intervals of the digitized waveforms to be transferred through the interface to the recording medium (*para 0038, 0057,*

0075), each interval immediately preceding one of the sound segments (*para 0038, 0057, 0075*), at least one interval being shorter than time period between the sound segments immediately following and immediately preceding said at least one interval (*para 0075, 0081; fig. 7a & 7b*).

Re Claim 30, Miura et al disclose a sound recorder in accordance with claim 28, further comprising a buffer (*para 0038*), wherein the processor is configured to cause the intervals to be stored in the buffer before the processor causes the intervals to be recorded on the recording medium (*para 0038*).

Claims 31 & 35 have been analyzed and rejected according to claim 11.

Claim 34 has been analyzed and rejected according to claim 10.

Claim 36 has been analyzed and rejected according to claim 12.

Claim 37 has been analyzed and rejected according to claim 16.

Claim 38 has been analyzed and rejected according to claim 17.

Claim 41 has been analyzed and rejected according to claim 30.

Re Claim 43, Miura discloses a recording device comprising: a buffer configured to store a digital representation of incoming sound; a first processing unit configured to monitor the incoming sound to detect the presence of a predetermined condition based on one or more attributes of the incoming sound (*para 0047*); and a second processing unit, wherein the second processing unit is configured, upon detection of the predetermined condition, to transfer, from the buffer to a recording medium (*para 0048*), a digital representation of the incoming sound corresponding to a first time period beginning a predetermined length of time before the predetermined condition is

detected and continuing at least until the predetermined condition is detected (*para 0060*); wherein the recording device is configured to transfer, to the recording medium, a digital representation of the incoming sound corresponding to a second time period beginning when the predetermined condition is detected and continuing until the predetermined condition is no longer detected (*para 0060*).

Claim 45 has been analyzed and rejected according to claim 11.

Claim 46 has been analyzed and rejected according to claim 12.

Claim 47 has been analyzed and rejected according to claim 16.

Claim 48 has been analyzed and rejected according to claim 17.

Re Claim 49, Miura et al discloses 1 recording device in accordance with claim 43, wherein the recording device includes the recording medium (*fig. 1: 2*).

Claim 50 has been analyzed and rejected according to claim 19.

Claim 52 has been analyzed and rejected according to claim 30.

Claim 53 has been analyzed and rejected according to claim 43.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 29 & 32-33, 39-40, 42, 44 & 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miura et al US Patent Pub. 2002/0183873 A1 as applied to claim 28 above, in view of Colier, US Patent 5,408,582.

Re Claim 29, Miura et al discloses a sound recorder in accordance with claim 28, but fails to disclose further comprising a microphone configured to receive the sound and generate analog waveforms corresponding to the sound, and an analog-to-digital converter coupled to the microphone and to the input, the analog-to-digital converter receive the analog waveforms and generate the digitized waveforms from the analog waveforms. However, Colier does (*col. 2, lines 32-40*).

Taking the combined teaching of Miura et al and Colier as a whole, one skilled in the art would have found it obvious to modify the sound recorder in Miura et al with further comprising a microphone configured to receive the sound and generate analog waveforms corresponding to the sound, and an analog-to-digital converter coupled to the microphone and to the input, the analog-to-digital converter receive the analog waveforms and generate the digitized waveforms from the analog waveforms as taught in Colier (*col. 2, lines 32-40*) so that the sound recording apparatus will be able to

record sounds from a microphone unto to a recording medium thus creating a more useful apparatus.

Claim 32 has been analyzed and rejected according to claims 28-29; however, claim 32 further recites the use of an antennal to transmit the sound segment intervals. Since the combined teachings of Miura et al and Colier fail to disclose an antenna, official notice is taken that both the concepts and advantages of using an antenna to transmit data are well known in the art. Thus it would have been obvious to use an antenna to transmit data to possibly broadcast the recorded sound segments over radio or television.

Claim 33 has been analyzed and rejected according to claim 28-30.

Claim 39 has been analyzed and rejected according to claims 19 & 29.

Claims 40 & 42 have been analyzed and rejected according to claim 29.

Claim 44 has been analyzed and rejected according to claims 11 & 29.

Claim 51 has been analyzed and rejected according to claim 29.

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GEORGE C. MONIKANG whose telephone number is (571)270-1190. The examiner can normally be reached on M-F. alt Fri. Off 7:30am-5:00pm (est).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chin Vivian can be reached on 571-272-7848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/George C Monikang/ 8/16/2008
Examiner, Art Unit 2615

/Suhan Ni/
Primary Examiner, Art Unit 2614